

UNITED STATES DISTRICT COURT
for the
Eastern District of Michigan

United States of America

v.

Andres David

Case: 2:23-mj-30410
Assigned To : Unassigned
Assign. Date : 10/10/2023
CMP USA V DAVID (LH)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 8, 2023 in the county of Wayne in the
Eastern District of Michigan, the defendant(s) violated:

Code Section
18 U.S.C. 922(g)(1)

Offense Description
Felon in possession of a firearm

This criminal complaint is based on these facts:
See attached affidavit.

☒ Continued on the attached sheet.

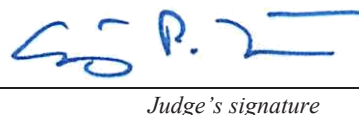
Sworn to before me and signed in my presence
and/or by reliable electronic means.

Date: October 10, 2023

City and state: Detroit, MI


Complainant's signature

Steven Allick, Special Agent, ATF
Printed name and title


Judge's signature

Hon. Anthony P. Patti, United States Magistrate Judge
Printed name and title

**AFFIDAVIT IN SUPPORT OF
CRIMINAL COMPLAINT AND ARREST WARRANT**

I, Steven Allick, Special Agent for the Bureau of Alcohol, Tobacco,
Firearms and Explosives, being duly sworn, hereby depose and state as follows:

I. INTRODUCTION

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), and have been since May of 2014. I am currently assigned to the Detroit Field Division. I completed 26 weeks of training, which was comprised of the Criminal Investigator Training Program and the ATF Special Agent Basic Training program at the Federal Law Enforcement Training Center in Glynco, Georgia. I received extensive training on firearms identification, common scenarios involving firearms and narcotics trafficking, and identification and effects of controlled substances. Additionally, I received training on undercover investigations related to firearms and narcotics trafficking, which included investigative techniques and common subject behavior.

2. During my employment with ATF, I have participated in numerous investigations of criminal violations relating to firearms, violent crime, and narcotics. I have participated in various aspects of criminal investigations, including interviews, physical surveillance, and obtaining and executing search warrants. I am familiar with and have employed various investigative methods, including electronic surveillance, visual surveillance, search warrants, and the utilization of confidential informants.

3. This affidavit is in support of criminal complaint and application for an arrest warrant for Andres DAVID for the crime of felon in possession of a firearm, Title 18, U.S.C. § 922(g)(1), in connection with a firearm DAVID sold to another individual that was later recovered by law enforcement.

4. The facts in this affidavit come from my personal observations, training, experience, and information obtained from ATF Special Agents, Task Force Officers, Police Officers, Detectives, and witnesses. This affidavit is intended to show that there is sufficient probable cause and does not set forth all information known to law enforcement regarding this investigation.

II. SUMMARY OF THE INVESTIGATION

5. On August 14, 2023, at approximately 4:57 AM, Detroit Police responded to a call for shots fired into a house. Two residents and their four children were inside the home when they heard several gun shots. Their house had been struck by the gunfire.

6. Police searched the area and found four spent 9mm shell casings nearby on the sidewalk. Officers spoke with a witness and the witness stated he/she was on the front lawn when they heard gunfire. The witness stated the shooter looked like DAVID.

7. Location data for DAVID's phone showed that DAVID was likely in the vicinity of this shooting scene prior to and during the approximate time the shooting occurred. License Plate Reader (LPR) data also placed DAVID's vehicle in an area consistent with fleeing the shooting scene and returning to his known residence.

8. On September 13, 2023, federal agents prepared to execute a federal search warrant for DAVID's residence. Prior to the warrant being executed, Detroit Police Officers stopped DAVID while he was driving his vehicle. Agents assisted DPD and searched the vehicle and located two spent 9mm shell casings on the exterior of the front windshield below the windshield wipers. The shell casings recovered from DAVID's vehicle were entered into NIBIN and were found to preliminarily match the casings recovered from the August 14, 2023 shooting. No firearms were found in the vehicle. DAVID's phone was seized and a federal search warrant was later obtained for his phone.

9. Agents then executed the federal search warrant at DAVID's residence. Agents recovered ammunition in the basement, along with clothing, personal documents, and indicia of occupancy belonging to DAVID.

10. During a post-Miranda interview with DAVID, he admitted to being at the scene of the shooting incident on August 14, 2023; however, DAVID said he was not the shooter. Instead, DAVID said he was being shot at.

11. On September 15, 2023, I applied for and was granted a federal search warrant for DAVID's cellular phone by United States Magistrate Judge Patricia T. Morris. Agents began a partial review of the data download of DAVID's device. During the review of DAVID's device, there was a conversation in Spanish with another individual (I-1). The conversation was translated into English by ATF SA

Victor Mota, who is a fluent and native Spanish speaker. The conversation is recited in English below from that translation:

Translation:

I-1: Send me a picture of the Taurus to buy it tomorrow.

I-1: I am working

DAVID: I have a 38

I-1: Send me the picture.

I-1: Right away.

I-1: Send me the picture of the two.

I-1: The one of the Taurus and the 8.

I-1: Send me the picture.

DAVID:



DAVID:



I-1: Bro let me get that revolver cheaper it looks a bit finished.

I-1: Bro I'll call you tomorrow at 10 a.m.

DAVID: Alright

DAVID: [Possibly Hey or listen]

I-1: Tell me, I just woke up.

DAVID: Call me.

DAVID: Right now.

DAVID: Call.

DAVID: Bro, I have both and I don't like them in my house.

DAVID: Send me the address.

I-1: [redacted]

I-1: Bro I don't know if you want to leave me both of them today
and on Friday I will pay you the other.

DAVID: [Audio message.]

I-1: Ok

I-1: Bring me the bullets.

12. On September 20, 2023, SA Madison reviewed location data for DAVID's vehicle obtained pursuant to a search warrant for a GPS tracking device. On September 8, 2023, the date of the text message conversation, DAVID's vehicle was parked on the street near the address given by I-1 at 1:13 p.m. and appeared to remain on the street until at least 1:22 p.m. This showed DAVID's vehicle was near I-1's residence within 16 minutes of the last text message related to the firearms sale and remained in the area long enough to complete the transaction.

13. I reviewed location data for DAVID's phone. On September 8, 2023, at approximately 1:19 p.m., during the time DAVID's vehicle was parked on the street near the I-1's house, DAVID's phone was also in the vicinity of the residence. This is consistent with DAVID being physically present at the location.

14. On September 22, 2023, a federal search warrant was executed at I-1's residence. Agents found a Smith and Wesson Revolver, model 36, .38 Special caliber, serial number 434319, and Remington ammunition as show below. The Revolver and

the ammunition recovered are consistent in appearance to the revolver and ammunition in the photo DAVID sent to I-1 on September 8, 2023. The box of ammunition has 40 live rounds on each photo, although the ammunition appears to be moved in the second photo.

Photo sent by DAVID to I-1 on September 8, 2023:



Photo of revolver and ammunition found at I-1's residence on September 22, 2023:



15. The revolver has several distinctive marks and scratches visible in the photo DAVID sent to I-1 that are also visible on physical inspection of the revolver found at I-1's residence. Furthermore, the ammunition in the photo DAVID sent to I-1 was inside a box for a cell phone. In I-1's house, the ammunition was found inside what appears to be the same box for a cell phone. Based upon my training and experience, and my review of the photograph sent by DAVID to I-1 and review of the physical evidence seized in this case, it is my opinion that the revolver and ammunition seized from I-1's house are the same as depicted in the photograph.

16. ATF Interstate Nexus Expert Joshua McLean reviewed the firearm and ammunition and determined the Smith and Wesson revolver and Remington ammunition are not manufactured in the State of Michigan. Therefore, it is SA McLean's preliminary opinion that the above stated firearm traveled in interstate or foreign commerce.

17. In August of 2023, I performed a computerized criminal history (CCH) search on DAVID utilizing the Michigan Law Enforcement Information Network (LEIN). I learned DAVID had the following felony convictions:

- a. 2002-Felony Firearms-3rd Circuit Court, Wayne County,
Michigan
- b. 2006-Armed Robbery-3rd Circuit Court, Wayne County,
Michigan

- c. 2006-Felony Firearms-3rd Circuit Court, Wayne County,
Michigan
- d. 2006-Possession of A Firearm by A Felon-3rd Circuit Court,
Wayne County, Michigan
- e. 2010-Armed Robbery-3rd Circuit Court, Wayne County,
Michigan
- f. 2012-Felony Home Invasion 2nd Degree, 3rd Circuit Court,
Wayne County, Michigan
- g. 2013-Felony Larceny in A Building-6th Circuit Court, Oakland
County, Michigan
- h. 2013-Habitual Offender, 4th Notice-6th Circuit Court, Oakland
County, Michigan
- i. 2017-Felony Home Invasion, 2nd Degree-3rd Circuit Court,
Wayne County, Michigan
- j. 2017-Felony Home Invasion, 2nd Degree-3rd Circuit Court,
Wayne County, Michigan
- k. 2018-Felony-Prisoner Possessing Weapons-10th Circuit Court,
Saginaw County, Michigan

18. DAVID is currently in the custody of the Michigan Department of Corrections (MDOC) awaiting a parole violation hearing as a result of the present

investigation. Reviewing DAVID's criminal history I noted he has served time in prison on several different instances, and therefore would be aware of his status as a convicted felon prohibited from possessing firearms. In addition, DAVID signed a Michigan Department of Corrections form CSJ-290 on October 19, 2021. A CSJ-290 informs an individual as being a convicted felon they are prohibited from possessing firearms under state and federal law.

III. CONCLUSION

19. Probable cause exists that Andres DAVID, a convicted felon, was in possession of a firearm, manufactured outside the state of Michigan, knowing that he was a felon and prohibited from possessing any firearms, in violation of Title 18, U.S.C. § 922(g)(1).

Respectfully submitted,



Steven Allick
ATF Special Agent

Sworn to before me and signed in my
presence and/or by reliable electronic means.



HONORABLE ANTHONY P. PATTI
UNITED STATES MAGISTRATE JUDGE

Date: October 10, 2023